

By: Duncan

S.B. No. 1475

A BILL TO BE ENTITLED

AN ACT

relating to the development and use of a jail-based restoration of competency pilot program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Article 46B, Code of Criminal Procedure, is amended by adding Article 46B.090 to read as follows:

Art. 46B.090. JAIL-BASED RESTORATION OF COMPETENCY PILOT PROGRAM. (a) The department shall develop a pilot program for jail-based restoration of competency pursuant to a commitment order issued under Article 46B.073(e), Code of Criminal Procedure. The department shall develop the pilot program:

(1) in not more than two counties for which the department determines that the operation of a jail-based restoration of competency program will prove to be feasible, efficient, and cost-effective; and

(2) in coordination with the affected counties.

(b) The department shall contract with a private provider of jail-based restoration of competency services to provide those services under the pilot program.

(c) The executive commissioner of the Health and Human Services Commission shall propose and adopt rules necessary to establish the pilot program. In adopting rules under this section, the executive commissioner shall specify the types of information the department must collect during the operation of the pilot

1 program for use in evaluating the outcome of the pilot program.

2 (d) To contract with the department under this article, a
3 private provider of jail-based restoration of competency services
4 must demonstrate to the department that:

5 (1) the provider has previously provided jail-based
6 competency restoration services for at least two years;

7 (2) the provider's jail-based competency restoration
8 program uses a multi-disciplinary treatment team that provides
9 clinical treatment that is:

10 (A) directed toward the specific objective of the
11 defendant attaining competency to stand trial; and

12 (B) similar to the clinical treatment provided at
13 a department facility;

14 (3) the provider's jail-based competency restoration
15 program has at least one psychiatrist, assigns staff members to
16 defendants participating in the program at an average ratio no
17 lower than 3.7 to 1, and provides weekly treatment hours
18 commensurate to the treatment hours provided in a state hospital
19 for a competency restoration program;

20 (4) the provider is certified by a nationwide
21 nonprofit organization that accredits health care organizations
22 and programs, such as the Joint Commission on Healthcare Staffing
23 Services; and

24 (5) the provider has a demonstrated history of
25 successful jail-based restoration of competency outcomes.

26 (e) A contract between the department and the provider
27 entered under this article must require the provider to collect and

1 submit to the department the information specified by rules adopted
2 under Subsection (c).

3 (f) The designated provider shall enter a contract with the
4 county in which the applicable jail included in the program is
5 located. The contract must require the county to:

6 (1) ensure the safety of defendants who are
7 participating in the jail-based restoration of competency program;

8 (2) designate a separate treatment space for the
9 provider to conduct individual and group sessions with the
10 defendants participating in the jail-based restoration of
11 competency program;

12 (3) provide the same basic care to defendants who are
13 participating in the jail-based restoration of competency program
14 as is provided to other inmates of a jail; and

15 (4) supply psychoactive medications to the mental
16 health service provider for purposes of administering
17 court-ordered medication to defendants in accordance with Article
18 46B.086 and Section 574.106, Health and Safety Code.

19 (g) If, in the opinion of the psychiatrist for the provider,
20 a defendant's competency to stand trial has been successfully
21 restored at any time during the defendant's participation in the
22 jail-based restoration of competency treatment program:

23 (1) the psychiatrist for the provider shall promptly
24 issue and send to the court a report demonstrating that fact; and

25 (2) the court shall consider that report as the report
26 of an expert stating an opinion that the defendant has been restored
27 to competency for purposes of Articles 46B.0755(a) and (b).

1 (h) If a defendant's competency to stand trial has in the
2 opinion of the psychiatrist for the provider been determined to be
3 unlikely to be restored in the foreseeable future at any time during
4 the defendant's participation in the jail-based restoration of
5 competency treatment program:

6 (1) the psychiatrist for the provider shall promptly
7 issue and send to the court a report demonstrating that fact; and

8 (2) the court shall proceed under Subchapter E or F or
9 release the defendant on bail as permitted under Chapter 17.

10 (i) The department shall design the jail-based restoration
11 of competency pilot program in such a manner that if, with respect
12 to a defendant charged with a felony, the defendant's competency to
13 stand trial has not, in the opinion of the psychiatrist for the
14 provider, been successfully restored by the end of 60th day after
15 the date the defendant begins to participate in the jail-based
16 pilot program and the defendant is to be transferred next to a
17 hospital or facility described by Article 46B.073(c) or (d), Code
18 of Criminal Procedure, for further restoration of competency
19 efforts, the defendant will without unnecessary delay, in
20 accordance with the previously issued order of the court, and as
21 applicable:

22 (1) enter the first available hospital or facility
23 described by Article 46B.073(c) for the remainder of the period
24 prescribed by Article 46B.073(b); or

25 (2) enter the first available appropriate facility
26 described by Article 46B.073(d) for the remainder of the period
27 prescribed by Article 46B.073(b).

1 (j) If the defendant is charged only with an offense
2 punishable as a misdemeanor, the effort to restore the defendant's
3 competency to stand trial under this article and Article
4 46B.073(e) may not continue after the end of the 60th day the
5 defendant begins to participate in the jail-based pilot program.

6 (k) Not later than December 1, 2016, the commissioner of the
7 department shall submit a report concerning the pilot program to
8 the presiding officers of the standing committees of the senate and
9 house of representatives having primary jurisdiction over health
10 and human services issues and over criminal justice issues. The
11 report must include the information collected by the department
12 during the pilot program and the commissioner's evaluation of the
13 outcome of the program as of the date the report is submitted.

14 (l) This section expires September 1, 2017.

15 SECTION 2. Article 46B.073, Code of Criminal Procedure, is
16 amended by adding Subsection (e) to read as follows:

17 (e) Notwithstanding Subsections (b), (c), and (d) of this
18 article, the court in a county participating in the pilot
19 jail-based restoration of competency program developed under
20 Article 46B.090, Code of Criminal Procedure, shall order the
21 defendant to participate in the jail-based restoration of
22 competency program in accordance with that article with the
23 possibility of further commitment to a hospital or facility
24 described by Subsection (c) or (d), as applicable, if competency to
25 stand trial is not successfully restored under the jail-based
26 program. This subsection expires September 1, 2017.

27 SECTION 3. This Act takes effect September 1, 2013.